IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4158 OF 2006

Kishor Balkrishna Mhatre ..Applicant

Versus

The State of Maharashtra ..Respondent

Mr.B.R.Patil with P.L.Sapkale for the applicant.

Mr.R.D.Suryawanshi for ofiringl complainant.

Mr.K.V.Saste APP for the State.

Coram : R.S.Mohite,J

Date : 2nd March, 2007.

PC

1. I have earlier rejected the bail of the present applicant by my order dated 15.6.2006. It is firstly argued that my order rejecting bail was passed under a mis-apprehension which is expressed in paragraph-3 and my observation to the effect that there was an overtact against the present applicant. In fact, in my order, I had observed that another co-accused Vijay Bhoir was granted bail because there was no overtact alleged against him and that was not a case of the present applicant. It is contended that though the witnesses state that the applicant was present with an iron rod, in fact, no witness states about any overtact committed by this applicant either against the deceased or against any

other injured person. This fact is fairly conceded by the learned APP as well as by the Advocate for the Complainant. In my order I had released other co-accused Rupesh Pavshe because there was only a general allegation of assault and no specific overtact. My attention is also drawn to the fact that some of the other co-accused like Pradeep Tare, Sandeep Mhatre and Ramesh Gaikwad were granted bail on a similar analogy. It appears that all the accused have been granted bail so far are persons against whom there was no overtact alleged. This also found to be true against the present applicant. I am inclined to re-consider the matter and grant bail to the present applicant. It is also brought to my notice that though the present applicant carried iron rod, the same has not been recovered from him. Similarly though he is alleged to have called on his mobile phone, the same mobile phone has also not been recovered.

2. In the circumstances, it is directed that pending his trial in pursuance of C.R.No.122/2005 registered at Vithatwadi police station, the applicant may be released on bail in the sum of Rs.20,000/- with one surety in the like amount subject to the condition that he will report to the Vithalwadi police station on every alternate Monday till the disposal of his trial. The Advocate for the Complainant makes a grievance that the accused

who have been granted bail were not present in the court for the purpose of framing of charge. The Advocate for the applicant makes a statement that the applicant will remain present on 15.3.2007 for the purpose of framing of a charge. The trial Court to take strict action if the accused are not present for the purpose of framing of a charge. It is made clear that the applicant will not tamper with any witnesses or will not make any attempt to contact with any of the witnesses. Application stands disposed off accordingly.

(R.S.Mohite,J)